UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

ROBERT HUGHES,	)	
	)	
Plaintiff,	)	
v.	)	Case No. 4:24-cv-00442-SEP
	)	
T-MOBILE USA, INC.,	)	
	)	
Defendant.	)	

MEMORANDUM AND ORDER

Before the Court is Defendant's Motion to Dismiss. Doc. [12]. The motion is fully briefed and ready for disposition. Docs. [13], [18], [20]. For the reasons set forth below, the motion is granted.

FACTS AND BACKGROUND[1]

Defendant hired Plaintiff, a black male, to work as an Account Manager. Doc. [5] ¶¶ 5-6. As an Account Manager, Plaintiff had a "quota of thirty-five units per month, generated from activity in the seven states assigned to [Plaintiff]." *Id*. ¶ 9. Following Defendant's merger with Sprint, Plaintiff was reassigned to a team consisting of all white females and servicing just two states, and Plaintiff's quota was increased to fifty units per month. *Id*. ¶¶ 1012. "After [Plaintiff] complained about the unfairness of the increased quota, Defendant took away half of Plaintiff's potential market in Missouri and gave it to a white female." *Id*. ¶ 13. When that white female quit after three months, Plaintiff was forced to share the territory with another white female who already had exclusive access to Nebraska, Colorado, and Kansas. *Id*. ¶¶ 14-15. Plaintiff claims that all the white female Account Managers had several states assigned to them. *Id*. ¶ 16. Plaintiff complained about the "unfair quota and territory assignments," but "[m]anagement never answered." *Id*. ¶¶ 18-19. On or about March 18, 2021, Plaintiff received a write-up for failing to meet his sales quota. *Id*. ¶ 20. According to Plaintiff, none of the white female Account Managers were written up despite not meeting their quotas. *Id*. On August 24, 2021, Plaintiff made

[1] The Court assumes the following facts, taken from the Petition, to be true for the purposes of the motion to dismiss. *See Neitzke v. Williams*, 490 U.S. 319, 326-27 (1989).

an official complaint alleging race and sex discrimination. *Id*. ¶ 22. Defendant took no action regarding the complaint, and Plaintiff eventually resigned. *Id*. ¶¶ 23-24.

On September 27, 2021, Plaintiff filed a Charge of Discrimination with the Missouri Commission on Human Rights and the Equal Employment Opportunity Commission. *Id*. ¶ 25. On January 24, 2023, the EEOC issued Plaintiff a right-to-sue letter. *Id*. ¶ 27. Plaintiff originally filed this action in state court alleging sex/gender and racial discrimination in violation of the Missouri Human Rights Act (MHRA), illegal retaliation in violation of the MHRA, and hostile work environment in violation of the MHRA. *See* Doc. [5]. Defendant removed the action to federal court, Doc. [1], and filed a motion to dismiss, Doc. [12].

LEGAL STANDARD

Under Federal Rule of Civil Procedure 12(b)(6), a party may move to dismiss a claim for "failure to state a claim upon which relief can be granted." The notice pleading standard of Federal Rule of Civil Procedure 8(a)(2) requires a plaintiff to give "a short and plain statement of the claim showing that the pleader is entitled to relief." To survive a Rule 12(b)(6) motion to dismiss, "a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)).

Determining if well-pled factual allegations state a "plausible claim for relief" is "a context-specific task that requires the reviewing court to draw on its judicial experience and common sense." *Id*. at 679. A plaintiff's allegations must allow "the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Whitney v. Guys, Inc.*, 700 F.3d 1118, 1128 (8th Cir. 2012) (quoting *Iqbal*, 556 U.S. at 678). The well-pled facts must establish more than a "mere possibility of misconduct." *Iqbal*, 556 U.S. at 679.

When ruling on a motion to dismiss, a court "must liberally construe a complaint in favor of the plaintiff," *Huggins v. FedEx Ground Package Sys., Inc.*, 592 F.3d 853, 862 (8th Cir. 2010), and "grant all reasonable inferences in favor of the nonmoving party," *Lustgraaf v. Behrens*, 619 F.3d 867, 872-73 (8th Cir. 2010) (citing *Braden v. Wal-Mart Stores, Inc.*, 588 F.3d 585, 591 (8th Cir. 2009)). But if a plaintiff fails to allege one of the elements necessary to recovery on a legal theory, the Court must dismiss that claim for failure to state a claim upon which relief can be granted. *See Crest Constr. II, Inc. v. Doe*, 660 F.3d 346, 355 (8th Cir.

2011). "Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice." *Iqbal*, 556 U.S. at 678 (citing *Twombly*, 550 U.S. at 555). Although courts must accept all well-pled factual allegations as true, they "are not bound to accept as true a legal conclusion couched as a factual allegation." *Twombly*, 550 U.S. at 555 (internal quotations and citation omitted).

DISCUSSION

Defendant moves to dismiss on the basis that Plaintiff has failed to obtain a right-to-sue letter from the MCHR. Doc. [13] at 2-4. "To initiate a claim under the MHRA a party must timely file an administrative complaint with MCHR [Missouri Commission on Human Rights] and either adjudicate the claim through the MCHR or obtain a right-to-sue letter." *Stuart v. Gen. Motors Corp., 217 F.3d 621, 630* (8th Cir. 2000). "Only after a plaintiff receives a right-to-sue letter from the MCHR may he file an MHRA claim." *Busch v. AppleCare Serv. Co., Inc.*, 2024 WL 2048861, at *4 (E.D. Mo. May 8, 2024) (citing *Hammond v. Mun. Corr. Inst.*, 117 S.W.3d 130, 136 (Mo. Ct. App. 2003)); *see also Whitmore v. O'Connor Mgmt., Inc.*, 156 F.3d 796, 800 (8th Cir. 1998) ("[W]e believe that the Missouri courts would consider a right-to-sue letter as a condition precedent, although not a jurisdictional prerequisite, to bringing an action under the MHRA.").

In his response, Plaintiff claims that he received a right-to-sue letter from the EEOC. However, "[a] right-to-sue letter from the EEOC does not give rise to a right-to-sue under the MHRA; the plaintiff must first receive a right-to-sue letter from the MCHR." *Hammond*, 117 S.W.3d at 136 (citing *Whitmore*, 156 F.3d at 800). And while Plaintiff is correct that the "failure to obtain a right to sue letter can be cured after litigation has begun," *Davis v. Bemiston-Carondelet Corp.*, 2006 WL 1722277, at *3 (E.D. Mo. June 20, 2006), Plaintiff has made no attempt to cure this defect despite the fact that the Motion to Dismiss has been pending for over six months. *Compare Simmons v. Directory Distrib. Assocs.*, 2005 WL 2033426, at *6 (E.D. Mo. Aug. 22, 2005) (dismissing plaintiff's MHRA claims because plaintiff "could have possibly cured the defect by obtaining a right-to-sue letter after filing the case, but did not do so"), *with Davis*, 2006 WL 1722277, at *3 (motion to dismiss denied where plaintiff was actively "pursuing a writ of mandamus in state court that would require MCHR to issue him a right-to-sue letter"). Because Plaintiff has failed to plead or otherwise establish that he received a right-to-sue letter from the MCHR, the Court finds

that Plaintiff has failed to adequately exhaust his administrative remedies as to his claims under the MHRA.

Accordingly,

IT IS HEREBY ORDERED that Defendant's Motion to Dismiss, Doc. [12], is **GRANTED**. The case is dismissed without prejudice.

The Court will issue a separate order of dismissal.

Dated this 8th day of January, 2025.

SARAH E. PITLYK
UNITED STATES DISTRICT JUDGE